IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:12cv42

LLOYD STEVEN KISER,)
Plaintiff,)
v.	ORDER
TRACTOR SUPPLY COMPANY, a Delaware Corporation and JOHN DOE,))
)
Defendants.)

Pending before the Court is the Motion to Strike [# 19]. Defendant moves to Strike the Amended Complaint filed by Plaintiff on January 3, 2013. Previously, the Court granted Plaintiff leave to file an Amended Complaint. (Order, Oct. 17, 2012.) The Court granted Plaintiff until October 24, 2012, to file his Amended Complaint. It does not appear, however, that Plaintiff ever actually filed an Amended Complaint. Subsequently, on January 3, 2013, over two months after the expiration for filing an Amended Complaint and several days after Defendant Tractor Supply Company moved for summary judgment, Plaintiff filed an Amended Complaint. Plaintiff, however, failed to file a motion requesting leave of Court pursuant to Rule 15 of the Federal Rules of Civil Procedure to file an

Amended Complaint, and Defendants have not consented to filing the Amended Complaint. Moreover, Plaintiff failed to even file a motion requesting leave to file an Amended Complaint. Finally, Plaintiff has not provided any reason to this Court for why it failed to comply with the Court's prior Order and timely submit an Amended Complaint. Upon a review of the docket in this case and the relevant legal authority, including Rule 15, the Court **GRANTS** the Motion to Strike [# 19] and **STRIKES** the Amended Complaint [# 18] from the record. The Court **DENIES as moot** the Motion for Extension of Time to Answer [# 21].

Signed: January 16, 2013

Dennis L. Howell

United States Magistrate Judge